WP(C) 1232/2007

BEFORE

THE HON'BLE MR JUSTICE I. A. ANSARI

Heard Dr. AK Saraf, learned Senior counsel, assisted by Ms. MM Katoki, learned counsel for the petitioners, and Mr. S Sarmah, learned standing counsel, NF Railway, appearing on behalf of the respondents.

Perused the writ petition and materials on record including a copy of the order, dated 06-02-2007, passed in WP(C) No. 594 of 2007.

The pleaded case of the petitioners is that, they have booked a consignment of coal in one rake consisting of 40 BCN/BCNA wagons through the railways from Goalpara Town to Chaneti and Rampur in Uttar Pradesh on 02-02-2007. The coal was loaded on volumetric basis as per marked height in the presence of the Railway Officials and other staff to their satisfaction. This had to be done as there was no weighbridge at Goalpara Town Railway Station. After such re-weighment, the Railway receipts were issued by the authorities at Goalpara Town and the corresponding freight was demanded by the Railway, which was accordingly deposited on 03-02-2007. According to the petitioners, without their knowledge, the rake was re-weighed en route at Jogighopa in the Railway Motion Weigh Bridge. The petitioners' request for weighing the rake again at their cost and in their presence having been declined, they are before this Court.

After hearing the learned counsel for the parties and on consideration of the sworn statements made in the petition, I close this petition with the direction that (1) the respondents would allow re-weighment of the petitioners' coal rake at Chaneti Junction Weighbridge, Muradabad, U.P., in presence of the respondent No. 11, Station Master, Chaneti Junction Weighbridge, Muradabad, U.P. (2) The petitioners shall execute a Bank guarantee to the satisfaction of the respondent authorities in favour of the respondent No.9, Divisional Railway Manager, Norther Railway, Muradabad Division, Muradabad, U.P. Execution of the Bank guarantee would be a condition precedent for re-weighment as ordered. (3) All expenses for the re-weighment shall be borne by the petitioners. (4) The respondent authorities shall release the petitioners' coal immediately after the re-weighment is complete and all dues payable by the petitioners are cleared. (5) On such dues being paid, the respondent authorities would also release the Bank guarantee within a period of two weeks therefrom.

It is further made clear that though the directions, given hereinabove, are in tune with the directions given in the order, dated 06-02-2007, aforementioned, these directions shall not be form precedent for all cases, in general.

The petition shall stand disposed of with the above observations and directions. No order as to costs.